

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KEITH NASS,)	
Petitioner)	
)	C.A. No. 04-40105-JLT
v.)	
)	
DAVID L. WINN,)	
Respondent.)	

MEMORANDUM AND ORDER

For the reasons stated below, the motion of respondent David L. Winn to dismiss is allowed and this action is dismissed.

BACKGROUND

On June 7, 2004 petitioner Keith Nass, an inmate at FMC Devens, filed his self-prepared petition for writ of habeas corpus under 28 U.S.C. § 2241 alleging that the Federal Bureau of Prisons (the "BOP") has incorrectly calculated the appropriate credit for good time conduct.

Now before the Court is respondent's Motion to Dismiss and supporting Memorandum asserting that (1) petitioner failed to exhaust his administrative remedies and (2) petitioner's good conduct time was appropriately calculated.

DISCUSSION

Several months after the filing of this action, the United States Court of Appeals for the First Circuit held that the Bureau of Prisons' interpretation of the statutes

governing calculation of good-time credit is entitled to deference. See Perez-Olivo v. Chavez, No. 04-1486, 2005 WL 31913 (1st Cir. Jan. 7, 2005). The holding in Perez-Olivo makes clear that the Bureau of Prisons' method of calculating petitioner's good conduct time is not illegal and petitioner cannot succeed in showing that he is in custody in violation of the constitution or laws of the United States. Because the petition is subject to dismissal on this ground, the Court need not address the exhaustion issue.

Accordingly, it is hereby

ORDERED, that the motion of respondent David L. Winn to dismiss (Docket No. 4) is GRANTED; and it is further

ORDERED that the petition be, and hereby is, DISMISSED.

SO ORDERED.

Dated at Boston, Massachusetts, this 25th day of January, 2005.

/s/ Joseph L. Tauro
JOSEPH L. TAURO
UNITED STATES DISTRICT JUDGE